

National Marine Fisheries Service/NOAA, Commerce

§216.115

Harassment of no more than 6,170 California sea lions and 1,065 harbor seals annually.

§216.113 Prohibitions.

Notwithstanding takings contemplated in §216.110 and authorized by a Letter of Authorization issued under §§216.106 and 216.117, no person in connection with the activities described in §216.110 may:

- (a) Take any marine mammal not specified in §216.110(b);
- (b) Take any marine mammal specified in §216.110(b) other than by incidental, unintentional Level B harassment;
- (c) Take a marine mammal specified in §216.110(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or
- (d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§216.106 and 216.117.

§216.114 Mitigation.

(a) The activity identified in §216.110(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in §216.110(a), all the mitigation measures contained in the Letter of Authorization issued under §§216.106 and 216.117 must be implemented, including but not limited to:

- (1) Limiting the location of the authorized fireworks displays to the four specifically prescribed areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek);
- (2) Limiting the total frequency of authorized fireworks displays to no more than 20 total displays per year and the average frequency to no more than one fireworks display every two months in each of the four conditional display areas;
- (3) Limiting the duration of authorized individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows not to exceed 1 hour;

(4) Prohibiting fireworks displays at MBNMS between March 1 and June 30 of any year; and

(5) Implementing the following special conditions for fireworks when authorizing fireworks displays at the MBNMS:

- (i) Delay of aerial "salute" effects until five minutes after the commencement of any fireworks display.
 - (ii) Removal of all plastic labels and wrappings from pyrotechnic devices prior to use.
 - (iii) Required recovery of all fireworks related debris from the launch site and affected beaches on the evening of the display and again on the morning after.
- (b) The mitigation measures that the individuals conducting the fireworks are responsible for shall be included as a requirement in any Authorization the MBNMS issues to the individuals.

§216.115 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to §§216.106 and 216.117 for activities described in §216.110(a) is required to cooperate with the National Marine Fisheries Service (NMFS), and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, National Marine Fisheries Service, or designee, by telephone (301-713-2289), within 48 hours if the authorized activity identified in §216.110(a) is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in §216.110(b).

(b) The Holder of the Letter of Authorization must conduct all monitoring and/or research required under the Letter of Authorization including, but not limited to:

- (1) A one-time comprehensive pinniped census at the City of Monterey Fourth of July Celebration in 2007;
- (2) A one-time acoustic measurement of the Monterey Fourth of July Celebration in 2007;